

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9628 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA
and
Hon'ble MR.JUSTICE N.G.NANDI

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPN

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 9628 of 1999
MR KS JHAVERI for Petitioner No. 1
MR SP SEN AGP for Respondents No. 1-2
HL PATEL ADVOCATES for Respondent No. 3 (absent)
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CORAM : MR.JUSTICE B.J.SHETHNA
and
MR.JUSTICE N.G.NANDI

Date of decision: 16/01/2002

The petitioner-Gujarat State Road Transport Corporation has filed this petition under Article 226 of the Constitution of India and challenged the impugned order at Annexure-C dated 30.12.1993 passed by the Collector in appeal as well as impugned order dated 4.10.1999 passed by the State Government at Annexure-A in revision and prayed that the respondent No.3 Himatnagar Nagarpalika be restrained from taking any coercive action pursuant to the bills at Annexure-B collectively.

Learned counsel Shri K.S.Javeri for the petitioner relying upon unreported judgment of the Division Bench of this court (Coram : M.R.Calla & R.P.Dholakia, J.J.) dated 30.4.1999 delivered in Special Civil Application No.3143 of 1998 submitted that it was not open to the respondent-Nagarpalika to recover the tax prior to 1993. He has also submitted that the Corporation is not liable to pay tax. Several other contentions have been raised in this petition. Apart from that he submitted that before coming to this court by way of writ petition, they have first filed statutory appeal before the Collector and after its dismissal they have filed revision but both the appellate as well as revisional authority dismissed their appeal and revision respectively by the orders which are absolutely non-speaking as both the authorities have completely failed to discuss and consider the points raised in appeal and revision.

At the time of hearing, no one was present for respondent No.3-Himatnagar Nagarpalika. However, Mr.Sen, learned AGP was present. Mr.Sen tries to submit that the learned Collector while deciding appeal at Annexure-C has already assigned reasons but mere repetition of the contentions raised by the petitioner and the Nagarpalika would not be sufficient. While deciding the appeal, the appellate authority is bound to discuss the contentions raised before it and answer it. It is not necessary for the appellate authority to write detailed judgment like courts but at least it is expected from the appellate authority to deal with the contentions raised before it and answer them as far as possible by way of brief reasoning. From the impugned order at Annexure-C dated 30.12.1993, it is clear that in one sentence the appeal was dismissed. We would like to reproduce whatever stated while dismissing the appeal by the appellate authority in its operative part of the order :-

"Heard the parties. Considered the facts and written reply of the Nagarpalika and considered the same. It appears that while assessing tax, the municipality has done legal procedure, which does not call interference".

This can hardly said to be any reasoning. Thus, it is clear that the impugned order at Annexure-C was absolutely a non-speaking order.

In view of the above discussion, this petition is allowed to the extent that the impugned order dated 30.12.1993 passed by the Collector, Sabarkantha in appeal filed by the petitioner-Corporation against the assessment of bills at Annexure-B is hereby quashed and set aside and the matter is remanded to the Collector with a direction to hear the appeal afresh and decide the same by assigning brief reasons on the point canvassed before him by the respective parties.

Before parting, we must state that in the reply it was contended by the Himatnagar Nagarpalika the the petitioner-Corporation is not paying the property tax for the subsequent period. When it is pointed out, learned counsel Shri Javeri had assured this court that he will see to it that the petitioner-Corporation will deposit the remaining tax, if it is due, as early as possible preferably within four weeks from today. Accordingly, this petition is allowed with a direction to the learned Collector to decide the appeal as early as possible and not later than three months from the date of receipt of the copy of this order. In the meanwhile, the petitioner shall deposit the balance tax amount for the year 1993 onwards. Rule made absolute to the aforesaid extent only, with no order as to costs.

(B.J.Shethna, J.)

(N.G.Nandi, J.)

*PvV